

# **Third parties and grievances: Can we fix it? Yes we can – sometimes<sup>i</sup>**

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## **Abstract**

Grievances attract much public controversy yet the amount of research evidence is limited. This study used a real-time approach, following a set of grievance cases as they proceeded through mediation. While the public debate has focused largely on the actions of employers and employees, our findings highlight the influential role of third parties in either escalating disputes or achieving resolution. The nature of that influence is determined by three critical attributes of the party in terms of their own relationships, concern for preserving relationships, and competency in dispute handling. While these attributes are largely related to individuals rather than roles, unions have unique potential for functioning as relationship managers and preserving employment relationships. The decline of unions however heightens the needs for organisations to seek other improved ways of dispute handling.

**Keywords:** Grievances; mediation; effectiveness; third parties; New Zealand

## **Introduction**

A diverse range of third parties are involved in grievances. These include internal parties such as HR staff and other managers, as well as external parties such as local and national level union staff, lawyers and private advocates. Typically these parties enter into a dispute when there are problems in the employee-employer relationship and attempts at direct resolution between those sides have stalled or failed. The influence of third parties can be significant, either moving towards resolution, or escalating the dispute and transforming it into adversarial, power-based conflict. This influence however is often little recognised and while reports note the high frequency of third party presence in disputes there has been only limited research into the dynamics involved.

The present research followed the progression of a set of fourteen cases which went through mediation. The findings highlight the influence of third parties, identifying the nature of their involvement and the key factors which determine whether their involvement produces positive or negative effects.

## **The changing context of grievances and dispute resolution**

The New Zealand employment relations context has shifted from a traditional highly regulated, centralised system to a deregulated, market-driven model (Lansbury *et al.* 2007). Grievance provisions have evolved over recent decades with the 1990s becoming known as the “era of the personal grievance” as the volume of claims more than doubled, mirroring the increase seen in other jurisdictions (Burgess *et al.* 2001; Lipsky *et al.* 2003 p.54). Some commentators attribute this rise in NZ claims to the ideological basis of the legislation at that time which diminished the role of unions, individualised the employment relationship, and shifted employment contracts towards legalism and contractualism (Cullinane & Donald 2000).

In New Zealand the Employment Relations Act 2000 is intended to maintain and preserve employment relationships so as to reduce the number of disputes and terminations. Mediation is framed as the primary problem-solving mechanism (Budd & Colvin 2008; Lipsky *et al.* 2003) with the Department of Labour offering first-level services that dealing with any problem “relating to or arising out of an employment relationship” (s.5). The next level is the Employment Relations Authority which functions in adjudicative role, and the Employment Court provides a higher level body.

Recently a National-led government moved to restrict access to grievances. A 90 day ‘trial period’ allowing the removal of grievance rights for new employees applied initially to small businesses and may be extended to all businesses (Employment Relations Amendment Bill (No 2)). In addition, responding to allegations of inadequacies among some types of third party representatives, reports have proposed measures such as compulsory membership of a professional governing body (Cabinet Economic Development Committee 2007; Woodhams 2007).

### **The Existing Literature**

Recent grievance research has focused on specific aspects of grievance behaviour such as grievance initiation, processing, employee responses and grievance outcomes. This has typically used large data sets and focused on employer and employee parties, exploring the role of variables such as grievant, workforce and workplace characteristics (Knight & Latreille 2000a; Lewin 1999), stage of settlement (Knight & Latreille 2000b), and enterprise size (Saridakis *et al.* 2008). Despite the intuitive appeal of seeking employee or workplace characteristics that could account for grievance filing, the findings are less equivocal. One recurrent theme however is that smaller enterprises incur a disproportionate number of claims compared to larger organisations which have greater expertise in dealing with grievances (Saridakis *et al.* 2008; Woodhams 2007).

A long-standing line of grievance research has centred on testing and qualifying Hirschman's (1970) loyalty-voice-exit model (Lewin & Petersen 1999; Olson-Buchanan & Boswell 2002). The model remains a topic of continued debate, attempting to reconcile the claimed benefits from grievance processes with the apparent negative outcomes associated with grievance action. The research is constrained by its tendency to frame grievances as a single filing decision, focusing mainly on the employee-perspective, in North American settings (Lewin 2004, pp. 402-403). This leaves significant gaps concerning aspects of the grievance process and the role of third parties.

The New Zealand research is limited. Contrary to employer claims, reports instigated by the Department of Labour suggested a much lower incidence of problems and concluded that the evidence did not support the assertion that there was a ‘grievance industry’ (Shulruf *et al.* 2009; Woodhams 2007). Employers had alleged that part of the rise in claims was attributable to “no win no fee advocates”, that is, representatives who are paid on a contingency basis, usually through a proportion of any settlement awarded, or no fee if the case is unsuccessful. The Department’s data however indicated that these advocates were only involved in around 16% of cases, although these cases did take longer to resolve (Shulruf *et al.* 2009; Woodhams 2007).

Earlier NZ research had noted that absence of representation was associated with lower success rates for employers and employees (McAndrew 1999). A limited amount of research comes from the UK. When employers and employees sought advice from third parties at an early stage, this brought defensive attitudes and led to legal proceedings (Gibbons 2007). Although disciplinary proceedings are different from grievances, UK union presence has been linked to lower dismissal and disciplinary sanction rates (Antcliff & Saundry 2009; Knight & Latreille 2000a) with Edwards (1995) proposing that unions can offer protection from unfair treatment, developing agreed rules and procedures and restraining managerial prerogative. Antcliff and Saundry (2009) argue that strong and effective trade unions can facilitate dispute resolution without the need for disciplinary action and therefore can promote early resolution of disputes.

The present study draws from a broader research project (Walker 2009) which explored individual-level employment disputes, looking at the sequence of stages and multiple participants involved. The current paper focuses on identifying the role and influence of external third parties on the progression and outcomes of such disputes.

## **Methodology**

The authors were given unique access to a total of fourteen disputes which went to external mediation. Difficulties in negotiating access are a major obstacle to studying employment grievances (Bingham 2007; Bingham & Chachere 1999; Lewin 1999) however an agreement was reached whereby the parties were studied from when they entered into mediation through the Department of Labour. This ensured a neutral venue and the capture of data in real time, minimising retrospective sense-making (Harrison 2003, p.312).

A case study approach allowed first-hand exploration of how particular grievances proceeded and why they ended as they did. Unlike the more common disputed-dismissal types of grievance, the cases selected were 'ongoing' disputes where the parties were still in an employment relationship at the time of reaching mediation, as these provided greatest opportunity to learn about the processes occurring (Eisenhardt 1989; Yin 2003). All but one of the employees were experiencing their first formal grievance, and none had a history of prior grievances with other employers. Significantly, these were mainly long-term workers, with no first-year employees and over 70% had been with their employer for five or more years. The outcomes were notable. Despite their 'ongoing' employment status, eleven cases ended with the parties terminating their relationship, and only three remained in continuing employment.

A distinctive feature of the study was that it followed through the progression of specific disputes, accessing the full set of parties involved in each one. Earlier case studies were typically limited by the fact that they accessed only one party to a dispute (Department of Labour 2002; Knight & Latreille 2000a; Woodhams 2007). The data came from interviews, observations, and written documentation that triangulated each other. Semi-structured interviews occurred with all the main actors in a dispute: employees, employers, representatives, and mediators, producing seventy in-depth interviews. These were audio-taped and then transcribed for analysis. Second, one researcher was permitted to attend mediation sessions as an observer. Third, a range of written documents were made available, including pre-mediation correspondence, submissions prepared for mediation, and employers' internal dispute procedures.

Data analysis followed the widely-used method developed by Eisenhardt (1989; Lee *et al.* 1999, pp.169-170). The first step of within-case analysis created a summary of the dynamics of each case, identifying critical points and key influences in the progression of each case. The second stage involved cross-case analysis, searching for meaningful patterns through identifying areas of similarity and differences across cases. To ensure the validity of the preliminary codes, the full transcripts were then entered into NVivo. This allowed further refinement from constant comparison between the emergent constructs and the data, defining, and testing the constructs, which led to a final set of codes. The relationships between the codes were defined so as to identify higher level constructs. We also used Miles and Huberman's (1994) tabular approach as this tested and clarified patterns in ways not always evident from the coded narrative.

### **Key findings: Third parties and Escalation**

The introduction of third parties invariably formed a major turning point in dispute sequences, often stimulating a process of escalation. Escalation reduces the likelihood of resolution and this could occur at each point where an additional power source was introduced into the dispute. Typically one side would perceive that their own position was threatened by the new power available to the other side and so would respond by increasing their own power. Power emerged as a central theme of the analysis. This draws on power-dependence theory (Bacharach & Lawler 1981) and the power dynamics' model of Kim *et al.* (2005) to explain the progression of disputes through a series of related stages. A key element of this is a process of power-seeking; that is, the parties' attempting to gain additional power in order to protect their interests. At the commencement, a party typically perceives that they do possess sufficient power to rectify their situation and attempts to do so; for example, employees typically attempted in-house resolution directly with the employer. When this was unsuccessful, the employee re-evaluated their situation, attributing their failure to a lack of power and so sought to increase their power, for example involving an external third party in a second iteration of in-house negotiations. Other unsuccessful outcomes can prompt a further set of similar progressions, until the issue is either rectified to their satisfaction, or they withdraw. This was most marked when external third parties were introduced on either side; for example when an employer or employee brought in their own advocate or legal representative. At that stage the nature of the interaction between the groups usually became more distant and adversarial, while direct dialogue between employer and employee reduced or ceased.

The absence of effective within-organisation procedures was often a condition that prompted the introduction of third parties; employees for example recounted how they felt they had no option but to seek external assistance. A retail worker outlined how the increasing negative effects of the dispute on her well-being, coupled with the absence of credible internal procedures, meant that she felt forced to use an external advocate:

*Cause the only other people that you can sort of go to are all managers and they are all very very cliquy.*

*I didn't want to bring anybody like [advocate] in – I wanted to try and keep some kind of peace – I mean to bring [advocate] in was a last resort. I knew that that was just putting a real cat amongst the pigeons basically.*

When the introduction of third parties creates escalation this leads to power-based conflict. Mutual problem-solving ceases and instead the two sides move to contending approaches (Pruitt & Kim 2004) where one side seeks to dominate and achieve their own goals at the expense of the other. In these situations where employees typically hold low levels of power, they are less likely to be able to protect their interests and this commonly leads to the employee terminating the employment relationship, even though they had sought to retain their job. Thus the involvement of a third party can be a catalyst in a process that culminates in the demise of the employment relationship.

These negative transformations were not present in all cases though and there was considerable variation in the way third parties handled dispute situations. Some were able to minimise escalation and move towards resolution, maintaining or restoring employment relationships. Thus the type of influence exerted by a third party could be pivotal in determining the eventual outcome of a dispute, either terminating or retaining employment. Contrary to expectations from the public debate however, the nature of third party intervention was not simply a matter of the role, that is, lawyer or union staff or advocate. The differing effects of external third parties' intervention were instead determined by a more complex process based upon three main dimensions that emerged from the data analysis.

### ***Current relationship***

The first dimension is the third party's current relationship (Current Relationship) with the other side at the time of entering into the dispute; for example, the relationship that the employee's representative may already have with the employer. It tended to be a unique feature of unions to have such an existing relationship prior to a dispute; other third parties in this study did not possess any relationship. Where a relationship did exist the nature of this could range from being a positive relationship to a problematic one. Some union organisers for example had worked with employers over a period of time, creating relatively positive working relationships, a degree of trust, and protocols between the parties which could allow parties to seek to resolve issues early through dialogue and informal meetings:

*Not being friends with [name] but understanding each other's positions and being professional and civil at all times... we've got to a point now where we trust that the other party's not going to hide anything (General Manager).*

*A lot of it is to do with the advocate. The guy that I spoke to today was sort of like, you know, 'can we be real, this political correctness is all stupid', and I want to be able to talk directly without you know, having it held against me later on, and vice versa. So, a lot of it is to do with that, whether you trust the other individual, and play by those rules (HR Manager).*

Their entry into a dispute did not provoke such significant escalation as there could be a degree of trust and a history of successfully working together. The reverse could apply though; other union organisers had negative relationships with employers and their entry could exacerbate a dispute, making it more adversarial and entrenched.

Other third parties such as lawyers and private advocates engaged by an employee had no prior relationship with a company, being engaged on a one-off contractual basis and so coming into a

dispute as strangers. Consequently they were viewed by the employer only in terms of their role, as an outside professional engaged by the employee, and so were perceived as a threat which needed to be defended against. This led the employer to become defensive, seeking their own legal representation, ceasing dialogue with the employee, and further escalating the dispute.

### ***Future Relationships***

The second dimension is the extent to which the third party seeks to maintain relationships, primarily the relationship between employer and employee, into the future. While Current Relationship refers to the existing links between a third party and employer at the time the third party enters into a dispute, Future Relationships (Future) refers instead to the goals and intent which then direct the third party's actions in handling the dispute. Among external third parties there was considerable variation. Unions were usually cognisant of the need to maintain both the employee's, and also their own, ongoing relationship with an employer, and consequently sought to use collaborative, problem-solving approaches which sought to minimise harm to those relationships.

*If it is an ongoing relationship that a party wishes to continue then you've got to be very careful that you don't make that untenable; everyone needs to walk away feeling good about it, that you've reached compromises and that there is some dignity in it for everybody (Union representative)*

Similarly, some lawyers for example, were particularly careful to maintain the employer-employee relationship, adopting relationship-sensitive tactics such as minimising the extent to which they were seen to be involved. One lawyer observed that it was usually the "kiss of death" for a relationship once a lawyer was seen to be involved in a dispute, and so instead these parties would function as unseen background advisors who would use tactics such as drafting letters for the employer or employee to write, in order to reduce the chances of escalation.

*And often I would restrict my - in one case particularly I didn't until the very end communicate anything in writing at all to the employer and all I - we - I was drafting emails that were sent by my clients so the - so far as until right at the very end...we decided that whilst everyone was productively working towards a result, what on earth was the benefit in it being open that there was a lawyer involved (Lawyer 1).*

*I'm always making a judgement call whether or not I need to be in the mediation or not. It goes back to a very early point that I made...that when a person's represented by a lawyer the stakes are different. The stakes may be different and the dynamics may be different (Lawyer 3).*

In contrast though, other parties, including unions, lawyers and advocates, adopted aggressive approaches, in both pre-mediation dealings and also at mediation, in the belief that a confrontational style and "winning" the present conflict was more important.

*We've got to go down and deal with the boss every day. So we like to settle things in an amicable manner. Whereas people like [name]... other advocates go down there, they can cause as much shit as they like, get their cheque and walk away. They don't have to go back there and deal with the aftermath or deal with the next dispute*

*because the last dispute soured everybody....We might get a win but if we piss all the members off or piss the boss off and every time we walk on the site he gets anti, we haven't done anything (Union representative).*

### **Competency**

Simply having a desire to maintain a relationship did not always guarantee that a party also had the abilities needed to achieve that goal. Virtually all of the employees wished to maintain their employment but some acted in ways that produced consequences they neither anticipated nor intended, escalating the disputes. One employee for instance, believed he could resolve the conflict with his immediate supervisor by writing directly to the CEO, and then persisted in this despite being instructed to desist. Not surprisingly the company viewed his actions as troublemaking rather than attempts at resolution, heightening the conflict. In several cases one party hired an advocate or lawyer whose stated aim was to attempt to resolve disputes but who adopted an aggressive contending approach which vastly increased the conflict;

*The unfortunate part about all of this is that [name] chose an advocate who took an extremely aggressive approach, rather than a collaborative and reasonable approach. And we felt we were left with no alternative but to respond in kind (Manager).*

In comparison, some third parties had considerable awareness of conflict dynamics and were able to select appropriate strategies and tactics, adopting for instance a problem-solving approach when seeking to preserve a relationship, but also being able to move to contending when necessary to preserve a client's interests (Pruitt & Kim 2004).

*I've been very, very conscious of training myself to avoid a natural instinct to attack and it's taken me a long, long time because I was a combative little prat, and I still am when it comes to cross-examination and that sort of thing if you're allowed in the Employment Relations Authority, but at mediation I actually try and come across as a lot more urbane and a lot more conciliatory (Lawyer 3).*

### **Discussion**

The findings have implications concerning the handling of individual level employment disputes. The absence of effective within-organisation dispute resolution systems can be seen as a first stage in a process of escalation. This initial failure can then trigger the second stage with the introduction of third parties which brings further escalation, thus compounding the problems. This leads to a confrontation where the outcomes are determined largely by the power of the parties, typically concluding in the termination of the employment relationship. The identification of this process does however offer two main points for positive intervention; firstly by creating more effective within-organisation procedures, and secondly through having external third parties with positive profiles in terms of *Current Relationship*, *Future Relationship* and *Competency*, which can lead to the preservation of employment.

Unions have a unique potential to avoid the cycle of escalation, bringing positive benefits at a

number of levels. They can have the uncommon advantage of having existing, positive relationships with an employer. This can firstly permit unions to represent the employees' interests in establishing within-organisation procedures that are perceived as effective, consequently affording employees a degree of influence in resolving disputes within the organisation. Through their ongoing dealings with an organisation, unions can also foster a degree of trust with management and establish protocols for resolving problems, permitting dialogue and early informal resolution of disputes. While unions can offer a degree of external power for employees, at the same time unions can also have of a high degree of concern for maintaining the *Future* employer-employee relationship (as well as their own relationship with the employer), along with high-levels of dispute handling *Competency*, thus minimising the escalation that typically follows their entrance as an external third party. In the NZ context with a geographically dispersed population and large number of smaller organisations without specialised HR functions, unions may be well suited to an informal relational approach with management. Thus unions have potential to fulfil a key role as relationship managers, exerting a positive influence in grievances and leading to the preservation or restoration of employment relationships, similar to UK research concerning disciplinary matters (Antcliff & Saundry 2009).

Whether this positive influence occurs in practice however depends on a number of inter-related conditions. Not all unions have positive relationships with employers, nor do all unions hold significant power. In some instances unions may choose not to support the individual; for example, a matter only affecting an isolated individual may receive less attention than a strategic issue affecting a number of members. Unions can also differ in terms of *Future Relationships* and dispute-handling *Competency*, with strongly militant unions seeking confrontation rather than negotiation.

The dilemma is that the increase in grievance volumes occurs at a time when union density has declined markedly to around one-fifth of the workforce (Feinberg-Danieli & Lafferty 2007), and NZ research also suggests a significant level of employer opposition to unions (Foster *et al.* 2009). Thus while unions may have a potentially valuable role to play, in practice their absence may contribute to the volume of grievances requiring external resolution. Some other third parties may have a concern for preserving the *Future Relationship* and *Competency*, but very few possess the vital *Current Relationship* with employers.

In the absence of unions, the task of improving within-organisation processes takes on increased importance, especially when a failure at this level leads to third party intervention with the strong possibility of escalation and demise of employment relationships. Countries such as New Zealand may therefore need to follow the example of non-union sites in North America by developing increasingly effective within-organisation procedures. Despite the best attempts at within-organisation resolution however there will always be some cases that ultimately progress to involve third parties. For those situations, the present research identifies what is required for non-union parties where *Current Relationships* are harder to achieve, and so *Future Relationships* and dispute-handling *Competency* form the key criteria for effective involvement.



## References

- Antcliff, V. & Saundry, R. 2009, 'Accompaniment, Workplace Representation and Disciplinary Outcomes in British Workplaces - Just a Formality?', *British Journal of Industrial Relations*, vol. 47, no. 1, pp. 100-21.
- Bacharach, S. B. & Lawler, E. J. 1981, 'Power and tactics in bargaining', *Industrial and Labor Relations Review*, vol. 34, no.2, pp. 219-33.
- Bingham, L. B. 2007, 'Evaluation Dispute Resolution Programs: Traps for the Unwary', *Labor and Employment Relations Association, Proceedings of the 59th Annual Meeting*, Labor and Employment Relations Association, Chicago, pp. 104-15.
- Bingham, L.B. & Chachere, D.R. 1999, 'Dispute resolution in employment: the need for research' in A.E. Eaton & J.H. Keefe (eds). *Employment Dispute Resolution and Worker Rights in the Changing Workplace* Champaign, Illinois, Industrial Relations Research Association, pp. 95-136.
- Budd, J.W. & Colvin, A.J.S. 2008, 'Improved metrics for workplace dispute resolution procedures: efficiency, equity, and voice', *Industrial Relations*, vol. 47, no. 3, pp. 460-79.
- Burgess, S., Propper, C. & Wilson, D. 2001, *Explaining the Growth in the Number of Applications to the Industrial Tribunals, 1972-1997*, Centre for Market and Public Organisation, Department of Economics, University of Bristol, London.
- Cabinet Economic Development Committee 2007, 'Review of the Employment Relationship Problem Resolution System'. Cabinet Economic Development Committee, Minute of Decision EDC Min (07) 24/6.
- Cullinane, J. & Donald, D. 2000, 'Personal Grievances in New Zealand', *Research on work, employment and industrial relations conference 2000; Proceedings of the 14th AIRAANZ Conference*, (eds.) J. Burgess & G. Strachan, Newcastle, Australia.
- Department of Labour 2002, *The Process of Dispute Resolution - A Qualitative Study Amongst Employees & Employers*, Employment Relations Service (ERS); UMR Research.
- Edwards, P.K. 1995, 'Human resource management, union voice and the use of discipline: an analysis of WIRS3', *Industrial Relations Journal*, vol. 26, no. 3, pp. 204-20.
- Eisenhardt, K.M. 1989, 'Building Theories from Case Study Research', *The Academy of Management Review*, vol. 14, no. 4, pp. 532-50.
- Feinberg-Danieli, G. & Lafferty, G. 2007, 'Unions and Union Membership in New Zealand: Annual Review for 2006', *New Zealand Journal of Employment Relations*, vol. 32, no. 3.
- Foster, B., John, M. & Ian, L. 2009, 'It takes two to tango: evidence of a decline in institutional industrial relations in New Zealand', *Employee Relations*, vol. 31, no. 5, pp. 503-14.
- Gibbons, M. 2007, *Better Dispute Resolution: A review of employment dispute resolution in Great Britain*, Department of Trade and Industry, London.
- Harrison, T., R. 2003, 'Victims, targets, protectors, and destroyers: using disputant accounts to develop a grounded taxonomy of disputant orientations', *Conflict Resolution Quarterly*, vol. 20, no. 3, pp. 307-29.
- Hirschman, A.O. 1970, *Exit, Voice, and Loyalty : Responses to Decline in Firms, Organizations, and States*. Cambridge, Mass. , Harvard University Press.
- Kim, P.H, Pinkley, R.L. & Fragale, A.R. 2005, 'Power dynamics in negotiation', *Academy of Management Review*, vol. 30, no. 4, pp. 799-822.
- Knight, K. G. & Latreille, P. L. 2000a, 'Discipline, dismissals and complaints to Employment Tribunals', *British Journal of Industrial Relations*, vol. 38, no. 4, pp. 533-55.
- Knight, K.G. & Latreille, P.L. 2000b, 'How far do cases go? Resolution in industrial tribunal applications', *The Manchester School*, vol. 68, no. 6, pp. 723-44.

- Lansbury, R.D., Wailes, N. & Yazbeck, C. 2007, 'Different Paths to Similar Outcomes? Industrial Relations Reform and Public Policy in Australia and New Zealand', *Journal of Labor Research*, vol. 28, no. 4, pp. 629-41.
- Lee, T.W., Mitchell, T.R. & Sablinski, C.J. 1999, 'Qualitative Research in Organisational and Vocational Psychology, 1979-1999', *Journal of Vocational Behaviour*, vol. 55, pp. 161-87.
- Lewin, D. 1999, 'Theoretical and empirical research on the grievance procedure and arbitration: a critical review', in A. E. Eaton & J. H. O'Keefe (eds), *Employment Dispute Resolution and Worker Rights in the Changing Workplace*, Champaign, Illinois, Industrial Relations Research Association, pp. 187-218.
- Lewin, D. 2004, 'Dispute resolution in the non-union organization: key empirical findings', in D. Sherwyn & S. Estreicher (eds), *Alternative Dispute Resolution in the Employment Arena: Proceedings of New York University Annual Conference Series*, New York, Kluwer, pp. 379-403.
- Lewin, D. & Petersen, R.B. 1999, 'Behavioral outcomes of grievance activity', *Industrial Relations*, vol. 38, no. 4, pp. 554-76.
- Lipsky, D.B., Seeber, R.L. & Fincher, R.D. 2003, *Emerging Systems for Managing Workplace Conflict: Lessons from American Corporations for Managers and Dispute Resolution Professionals*. San Francisco, Jossey-Bass.
- McAndrew, I. 1999, 'Adjudication in the Employment Tribunal: some facts and figures on caseload and representation', *New Zealand Journal of Industrial Relations*, vol. 24, no. 3, pp. 365-82.
- Miles, M.B. & Huberman, M., A. 1994, *Qualitative data analysis 2e* Sage.
- Olson-Buchanan, J.B. & Boswell, W.R. 2002, 'The role of employee loyalty and formality in voicing discontent', *Journal of Applied Psychology*, vol. 87, no. 6, pp. 1167-74.
- Pruitt, D.G. & Kim, S.H. 2004, *Social conflict: escalation, stalemate and settlement*. 3rd edn. Boston: McGraw-Hill.
- Saridakis, G., Sukanya, S.-G., Edwards, P. & Storey, D.J. 2008, 'The impact of the enterprise size on employment tribunal incidents and outcomes: evidence from Britain', *British Journal of Industrial Relations*, vol. 46, no. 3, pp. 469-99.
- Shulruf, B., Woodhams, B., Howard, C., Roopali, J. & Yee, B. 2009, 'Grievance gravy train picking up speed: myths and reality around employment disputes in New Zealand', *Journal of Industrial Relations*, vol. 51, pp. 245-61.
- Walker, B. 2009, 'For Better or for Worse: Employment Relationship Problems under the Employment Relations Act 2000, Unpublished PhD Dissertation', vol. PhD. University of Canterbury.
- Woodhams, B. 2007, *Employment Relationship Problems: Costs, Benefits and Choices, August 2007*, Department of Labour, Wellington.
- Yin, R. K. 2003, *Case Study Research: Design and Methods 3e* Thousand Oaks, Calif., Sage Publications.

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<sup>i</sup> This paper has been peer reviewed by two anonymous referees